

Farm Credit Administration

§ 622.61

consented to the issuance of an assessment order.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

§ 622.58 Hearing on assessment.

(a) *Time and place.* An institution or person requesting a hearing will be informed by order of the Board of the time and place set for hearing.

(b) *Answer; procedures.* The hearing order may require the institution or person requesting the hearing to file an answer as prescribed in § 622.5 of subpart A. The procedures of the Administrative Procedure Act (5 U.S.C. 554-557) and subpart A of these rules will apply to the hearing.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

§ 622.59 Assessment order.

(a) *Consent.* In the event of consent of the parties concerned to an assessment, or if, upon the record made at a hearing ordered under this subpart, the Board finds that the grounds for having assessed the penalty have been established, the Board may issue an order of assessment of civil money penalty. In its assessment order, the Board may reduce the amount of the penalty specified in the notice of assessment.

(b) *Effective date and period.* An assessment order is effective immediately upon issuance, or upon such other date as may be specified therein, and will remain effective and enforceable unless it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.

(c) *Service.* An assessment order may be served by personal service or by certified mail with a return receipt to the last known address of the institution or person being assessed. Such service constitutes issuance of the order.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

§ 622.60 Payment of civil money penalty.

(a) *Payment date.* Generally, the date designated in the notice of assessment for payment of the civil money penalty will be 60 days from the issuance of the notice. If, however, the Board finds, in a specific case, that the purposes of the

relevant statutes would be better served if the 60-day period were changed, the Board may shorten or lengthen the period or make the civil money penalty payable immediately upon receipt of the notice of assessment. If a timely request for a formal hearing to challenge an assessment of a civil money penalty is filed, payment of the penalty will not be required unless and until the Board issues a final order of assessment following the hearing. If an assessment order is issued, it will specify the date by which the civil money penalty is to be paid or collected.

(b) *Method of payment.* Checks in payment of civil money penalties must be made payable to the "Farm Credit Administration." Upon collection, the FCA will forward payment for penalties described in § 622.52(a) and (b) to the United States Department of Treasury. The FCA will forward payment for penalties described in § 622.52(c) to the National Flood Mitigation Fund as required by 42 U.S.C. 4012a(f)(8).

[70 FR 12585, Mar. 15, 2005]

§ 622.61 Adjustment of civil money penalties by the rate of inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(a) The maximum amount of each civil money penalty within FCA's jurisdiction is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note), as follows:

(1) Amount of civil money penalty imposed under section 5.32 of the Act for violation of a final order issued under section 5.25 or 5.26 of the Act: The maximum daily amount is \$1,100 for violations occurring before July 1, 2013, and \$2,100 for violations that occur on or after July 1, 2013.

(2) Amount of civil money penalty for violation of the Act or regulations: the maximum daily amount is \$650 for each violation that occurs on or after March 16, 2005, but before January 16, 2009, and \$750 for each violation that occurs on or after January 16, 2009.

(b) The maximum civil money penalty amount assessed under 42 U.S.C. 4012a(f) is: \$385 for each violation that

occurs on or after March 16, 2005, but before January 16, 2009, with total penalties under such statute not to exceed \$110,000 for any single institution during any calendar year; \$385 for each violation that occurs on or after January 16, 2009, but before July 1, 2013, with total penalties under such statute not to exceed \$120,000 for any single institution during any calendar year; and \$2,000 for each violation that occurs on or after July 1, 2013, with no cap on the total amount of penalties that can be assessed against any single institution during any calendar year.

[78 FR 24337, Apr. 25, 2013]

§§ 622.62–622.75 [Reserved]

Subpart C—Rules and Procedures Applicable to Suspension or Removal of an Individual Where Certain Crimes Are Charged or Proven

§ 622.76 Definitions.

Unless noted otherwise, the definitions set forth in § 622.2 of subpart A shall apply to this subpart.

§ 622.77 Purpose and scope.

The rules and procedures set forth in this subpart apply to informal hearings afforded to any officer, director, or other person participating in the conduct of the affairs of a System institution who has been suspended or removed from office or prohibited from further participation in any manner in the conduct of the institution's affairs by a notice or order issued by the Board upon the grounds set forth in section 5.29 of the Act.

§ 622.78 Suspension, prohibition or removal.

(a) *Content.* The Board may serve a notice of suspension or prohibition or order of removal upon a director, officer or other person participating in the conduct of the affairs of an institution. A copy of such notice or order shall also be served upon the institution, whereupon the individual concerned shall immediately cease service to the institution or participation in the affairs of the institution. Any notice or order shall indicate the basis for the

suspension, prohibition, or removal and shall inform the individual of the right to request in writing, within 30 days of being served with such notice or order, an opportunity to show at an informal hearing that continued service to or participation in the conduct of the affairs of the institution does not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System.

(b) *Service.* A notice or order of suspension, removal or prohibition may be served by personal service or by certified mail with a return receipt to the last known address of the person being served.

§ 622.79 Petition for informal hearing.

(a) *Filing.* To obtain a hearing, the subject individual must file an original and three copies of a petition with the Board within 30 days of being served with the notice or order.

(b) *Content.* The petition shall:

(1) State whether the petitioner is requesting termination or modification of the notice or order;

(2) State with particularity how the petitioner intends to show that his or her continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System;

(3) Include a request to present oral testimony or witnesses at the hearing, if the petitioner desires to do so. The request should specify the names of the witnesses and a summary of their expected testimony; and

(4) Indicate whether the petitioner desires oral argument or elects to have the matter determined solely on the basis of written submissions.

§ 622.80 Informal hearing.

(a) *Time and place.* Upon receipt of a timely petition for a hearing, the Board shall notify the petitioner of the time and place fixed for the hearing and shall designate one or more Board